* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ **Crl. M.C. No. 5024/2006**

% Date of Decision: 26th November, 2007

\# **Dinesh Kumar** .....Petitioner

! Through Mr. Braham Singh, Advocate

Versus

$ **State of NCT of Delhi & Ors.** .....Respondents

^ Through Mr. Pawan Behl, APP

Mr. Ajay Kumar Gupta, Advocate for respondent no. 4-complainant.

CORAM:

* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the Judgment?(No)

2. To be referred to the Reporter or not?(No)

3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:

The petitioner has invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' in short) for quashing of FIR no. 568/2002 for the offences punishable under Sections 406/420/120-B IPC registered on 31.12.2002 at police station Ambedkar Nagar and also the criminal proceedings arising out of the said FIR pending in the Court of Ms. Geetanjali Goel, Metropolitan Magistrate, New Delhi.

2. The facts leading to the registration of FIR against the petitioner and his prosecution are that for the economic development of educated urban people, the Central Government of India launched 'Prime Minister Rojgar Yogna' for which purpose financial assistance was also provided to the unemployed persons. To avail that facility petitioner applied for a loan for purchase of a computer set and after considering the case of the petitioner the Commissioner of Industries of National Capital Territory Government of Delhi recommended his case for financial assistance to the respondent no. 4, Punjab National Bank which then sanctioned a loan of Rs. 60,000/- to the petitioner on 18-3-1996.

For that purpose an agreement was executed between the respondent no. 4 and the petitioner and the petitioner hypothecated the computer set with the bank but later on the computer in question was disposed of by the petitioner which resulted in the violation of terms and conditions of the loan agreement. To recover that loan amount respondent no. 4 got registered a criminal case at Police Station Ambedkar Nagar for the offences under Sections 406/420/120-B I.P.C. The police investigated the matter and after completion of the investigation filed charge sheet in the Court of Metropolitan Magistrate, New Delhi where the case is still pending.

3. During the pendency of the above said criminal proceedings the petitioner and respondent no. 4 after having resolved their dispute regarding the loan amount have come to an amicable settlement and the petitioner is stated to have made the payment to the complainant bank as per the settlement.

4. Since one of the offences for which the petitioner was being prosecuted, namely, under Section 406 IPC was not compoundable as per the provisions of Section 320 Cr.P.C the present petition under Section 482 Cr.P.C. was filed by the petitioner. Notice of the petition was sent to the State and the complainant bank. The bank entered appearance through its counsel on 10.10.2007. In support of this petition learned counsel for the petitioner placed reliance upon one judgment of the Apex Court in "***Nalini Shankaran & Ors. v. Neelkanth Mahadeo Kamble & Ors." 2007 (2) Crimes 329 (SC),*** and three judgments of this

Court in "***Rishi Raj & Ors. v. The State" 2001 (2) JCC 234, "Ajay Kumar & Ors. v. State & Ors." 131(2006)DLT 130*** and "***D.C. Singham v. State & Anr." 2006 (1) JCC 371.***

5. The counsel for respondent no. 4-complainant submitted before this Court that bank has received its loan amount and affirmed that the matter has been amicably resolved and so it was no more interested in pursuing the case against the petitioner. He supported the prayer of the petitioner stating that respondent no. 4 has no objection if the FIR and criminal proceedings arising there from are quashed.

6. Learned APP for the State, however, opposed quashing of the FIR on the ground that allegations against the petitioner are grave in nature and the offence under Section 406 IPC is not compoundable under Section 320 Cr.P.C. and if this offence is permitted to be compounded that would amount to bye-passing the provisions of section 320 Cr.P.C. which should not be done by this Court by exercising the inherent jurisdiction vested in it under Section 482 Cr.P.C.

7. I have given my due consideration to the rival submissions. It is now well settled by many judgments of the Hon'ble Supreme Court that FIRs even in respect of those offences which are not compoundable under Section 320 Cr.P.C. can be quashed as also the criminal proceedings emanating therefrom, if it is felt while dealing with a quashing petition under Section 482 Cr.P.C. that it would secure the ends of justice if the FIR and criminal proceedings arising therefrom are

quashed and continuation of the criminal proceedings would amount to abuse of the process of law. Reference in this regard can be made in one of the judgments of Hon'ble Supreme Court which is reported in "***B.S.Joshi & Ors. Vs. State of Haryana & Anr.", AIR 2003 SC 1386*** wherein it has been so held by the Hon'ble Supreme Court. It is significant to note that one of the offences in that case was also under section 406 I.P.C. but still the criminal proceedings were quashed because of the compromise between the complainant side and the accused persons. In the present case, the FIR against the accused came to be registered primarily because of his failure to repay the loan amount which the complainant bank had disbursed. Since the complainant has received back the loan amount from the accused it would secure the ends of justice if the FIR registered against the petitioner and the ongoing trial are quashed.

8. This petition is accordingly allowed and consequently FIR No. 558/2002 under Sections 406/420/120-B IPC registered at police station Ambedkar Nagar and criminal proceedings arising therefrom pending in the Court of Ms. Geetanjali Goel, Metropolitan Magistrate, New Delhi are hereby quashed.

P.K.BHASIN,J

November 26, 2007
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